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shall solicit comments, data and information with respect to that interim determination. Written comments and responsive statements may be submitted as provided in paragraphs (b) and (c) of this section.

(e) *Public announcement of final determination.* The Assistant Secretary for Energy Efficiency and Renewable Energy shall, as soon as practicable, following receipt and review of comments and responsive statements on the interim determination publish in the FEDERAL REGISTER a notice of final determination on the Petition.

(f) *Additional information.* The Department may, at any time during the recognition process, request additional relevant information or conduct an investigation concerning the Petition. The Department's determination on a Petition may be based solely on the Petition and supporting documents, or may also be based on such additional information as the Department deems appropriate.

(g) *Withdrawal of recognition*—(1) *Withdrawal by the Department.* If the Department believes that a certification program that has been recognized under §431.447 is failing to meet the criteria of paragraph (b) of the section under which it is recognized, the Department will so advise such entity and request that it take appropriate corrective action. The Department will give the entity an opportunity to respond. If after receiving such response, or no response, the Department believes satisfactory corrective action has not been made, the Department will withdraw its recognition from that entity.

(2) *Voluntary withdrawal.* A certification program may withdraw itself from recognition by the Department by advising the Department in writing of such withdrawal. It must also advise those that use it (for a certification organization, the manufacturers) of such withdrawal.

(3) *Notice of withdrawal of recognition.* The Department will publish in the FEDERAL REGISTER a notice of any withdrawal of recognition that occurs pursuant to this paragraph (g).

[77 FR 26639, May 4, 2012]

PART 433—ENERGY EFFICIENCY STANDARDS FOR THE DESIGN AND CONSTRUCTION OF NEW FEDERAL COMMERCIAL AND MULTI-FAMILY HIGH-RISE RESIDENTIAL BUILDINGS

Sec.

AUTHORITY: 42 U.S.C. 6831–6832, 6834–6835; 42 U.S.C. 7101 *et seq.*

SOURCE: 71 FR 70281, Dec. 4, 2006, unless otherwise noted.

§433.1 Purpose and scope.

(a) This part establishes an energy efficiency performance standard for the new Federal commercial and multi-family high-rise buildings, for which design for construction began on or after January 3, 2007, as required by section 305(a) of the Energy Conservation and Production Act, as amended (42 U.S.C. 6834(a)).

(b) [Reserved]

(c) This part also establishes green building certification requirements for new Federal buildings that are commercial and multi-family high-rise residential buildings and major renovations to Federal buildings that are commercial and multi-family high-rise residential buildings, for which design for construction began on or after October 14, 2015.

[71 FR 70281, Dec. 4, 2006, as amended at 79 FR 61569, Oct. 14, 2014]

§ 433.3 Materials incorporated by reference.

(a) *General.* The Department of Energy incorporates by reference the energy performance standards listed in paragraph (b) of this section into 10 CFR part 433. The Director of the Federal Register has approved the material listed in paragraph (b) of this section for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Any subsequent amendment to a standard by the standard-setting organization will not affect DOE regulations unless and until DOE amends its energy performance standards. Material is incorporated as it exists on the date of the approval, and a notice of any change in the material will be published in the FEDERAL REGISTER. All approved material is available for inspection at the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024, (202) 586–2945. Also, this material is available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) *ASHRAE.* American Society of Heating Refrigerating and Air-Conditioning Engineers, Inc., 1791 Tullie Circle, NE. Atlanta, GA 30329, (404) 636–8400; or go to, *http://www.ashrae.org//.*

(1) ANSI/ASHRAE/IESNA 90.1–2004, ("ASHRAE 90.1–2004"), Energy Standard for Buildings Except Low-Rise Residential Buildings, January 2004, ISSN 1041–2336, IBR approved for §§ 433.2, 433.100, and 433.101;

(2) ANSI/ASHRAE/IESNA Standard 90.1–2007, ("ASHRAE 90.1–2007"), Energy Standard for Buildings Except Low-Rise Residential Buildings, 2007, ISSN 1041–2336, IBR approved for §§ 433.2, 433.100, and 433.101.

(3) ANSI/ASHRAE/IESNA 90.1–2010, ("ASHRAE 90.1–2010"), Energy Standard for Buildings Except Low-Rise Residential Buildings, I–P Edition, Copyright 2010, IBR approved for §§ 433.2, 433.100, and 433.101.

[76 FR 49284, Aug. 10, 2011, as amended at 78 FR 40953, July 9, 2013; 79 FR 61569, Oct. 14, 2014]

§§ 433.4–433.7 [Reserved]

§ 433.8 Life-cycle costing.

Each Federal agency shall determine life-cycle cost-effectiveness by using the procedures set out in subpart A of part 436. A Federal agency may choose to use any of four methods, including lower life-cycle costs, positive net savings, savings-to-investment ratio that is estimated to be greater than one, and an adjusted internal rate of return that is estimated to be greater than the discount rate as listed in OMB Circular Number A–94 "Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs."

Subpart A—Energy Efficiency Performance

SOURCE: 79 FR 61569, Oct. 14, 2014, unless otherwise noted.

§ 433.100 Energy efficiency performance standard.

(a) (1) All Federal agencies shall design new Federal buildings that are commercial and multi-family high-rise residential buildings, for which design for construction began on or after January 3, 2007, but before August 10, 2012, to:

(i) Meet ASHRAE 90.1–2004, (incorporated by reference, see § 433.3); and

(ii) If life-cycle cost-effective, achieve energy consumption levels, calculated consistent with paragraph (b) of this section, that are at least 30 percent below the levels of the ASHRAE Baseline Building 2004.

(2) All Federal agencies shall design new Federal buildings that are commercial and multi-family high-rise residential buildings, for which design for construction began on or after August 10, 2012, to:

(i) Meet ASHRAE 90.1–2007, (incorporated by reference, see § 433.3); and

(ii) If life-cycle cost-effective, achieve energy consumption levels, calculated consistent with paragraph (b) of this section, that are at least 30

to the 30 percent savings requirements, rather than as process loads.

Subpart B—Reduction in Fossil Fuel-Generated Energy Consumption [Reserved]

Subpart C—Green Building Certification for Federal Buildings

§ 433.300 Green building certification.

(a) If a Federal agency chooses to use a green building certification system to certify a new Federal building or a Federal building undergoing a major renovation and such building is also either a public building (as defined in 40 U.S.C. 3301) for which transmittal of a prospectus to Congress is required under 40 U.S.C. 3307, or a Federal building for which estimated new building or major renovation design and construction costs are at least $2,500,000 (in 2007 dollars, adjusted for inflation), and design for construction began on or after October 14, 2015. [then]

(b) The system under which the building is certified must:

(1) Allow assessors and auditors to independently verify the criteria and measurement metrics of the system;

(2) Be developed by a certification organization that:

(i) Provides an opportunity for public comment on the system; and

(ii) Provides an opportunity for development and revision of the system through a consensus-based process;

(3) Be nationally recognized within the building industry;

(4) Be subject to periodic evaluation and assessment of the environmental and energy benefits that result under the rating system; and

(5) Include a verification system for post-occupancy assessment of the rated buildings to demonstrate continued energy and water savings at least every four years after initial occupancy.

(c) *Certification level.* The building must be certified to a level that promotes the high performance sustainable building guidelines referenced in Executive Order 13423 "Strengthening Federal Environmental, Energy, and Transportation Management" and Executive Order 13514 "Federal Leadership in Environmental, Energy and Economic Performance."

[79 FR 61570, Oct. 14, 2014]

PART 434—ENERGY CODE FOR NEW FEDERAL COMMERCIAL AND MULTI-FAMILY HIGH RISE RESIDENTIAL BUILDINGS

Sec.